

AMENDED IN ASSEMBLY APRIL 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1406

Introduced by Assembly Member Wolk

February 21, 2003

~~An act relating to water. An act to add and repeal Chapter 13 (commencing with Section 2924) of Division 3 of the Fish and Game Code, relating to vector control.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1406, as amended, Wolk. ~~Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002: wetland projects: mosquito abatement~~ Mosquito abatement: West Nile Virus.

(1) Existing law establishes mosquito abatement and vector control districts to surveil, study, and take actions to prevent, abate or control vectors and vectorborne diseases. Existing law establishes, until January 1, 2005, the Suisun Marsh Wetlands Enhancement and Mosquito Abatement Demonstration Program, for the purpose of devising and evaluating methods by which wetland management techniques in the Suisun Marsh can be better integrated with mosquito abatement programs.

This bill would express the intent of the Legislature to expand the Suisun Marsh demonstration program statewide by developing a cooperative program to combat the impending spread of the mosquito-borne West Nile Virus and funding mosquito and vector control districts to abate mosquito producing wetlands. The bill would state that the purpose of the program is to reduce mosquito production

from early and late flooding, as defined, through the cooperative efforts of mosquito abatement districts and private wetlands landowners.

This bill would require wetlands landowners and mosquito districts to meet and confer each year to discuss and develop water and land management techniques to reduce the production of mosquitos on wetlands, and to determine whether they will conduct early or late flooding. The bill would require landowners to cooperate and assist in developing management plans to reduce mosquito production on wetlands.

The bill would require mosquito districts to keep detailed records on each mosquito outbreak requiring control measures, posttreatment inspections, and other information relative to the outbreak. The bill would require mosquito districts to immediately notify landowners of outbreaks and to provide recommendations about changing wetlands management practices to avert future outbreaks. The bill would require each mosquito district to report to the Department of Fish and Game by January 1, 2007, regarding how marsh management practices and mosquito abatement operations have been improved to better integrate disease control and wetland survivability. The bill would specify that no General Fund money shall be used for its purposes.

The new duties for mosquito abatement districts required by the bill would impose a state-mandated local program.

The bill would repeal its provisions on January 1, 2007.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, an initiative measure approved by the voters at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in the amount of \$3,440,000,000.~~

~~This bill would declare that it is the intent of the Legislature to appropriate funds made available by the act for wetland projects that incorporate mosquito abatement features.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature in subsequent~~
2 ~~amendments to appropriate funds from the Water Security, Clean~~
3 ~~Drinking Water, Coastal and Beach Protection Fund of 2002 for~~
4 ~~wetland projects that incorporate mosquito abatement features.~~

5 *SECTION 1. It is the intent of the Legislature to expand the*
6 *Suisun Marsh Wetlands Enhancement and Mosquito Abatement*
7 *Demonstration Program (Ch. 12 (commencing with Sec. 2920),*
8 *Div. 3, F. & G. C.) statewide by developing a cooperative program*
9 *to combat the impending spread of the mosquito-borne West Nile*
10 *Virus and funding mosquito and vector control districts to abate*
11 *mosquito producing wetlands.*

12 *SEC. 2. The Legislature finds and declares all of the*
13 *following:*

14 *(a) There is an incipient danger mounting with the spread of the*
15 *West Nile Virus to California. Health and safety considerations*
16 *mandate additional affirmative efforts to combat the spread of*
17 *mosquito-borne diseases.*

18 *(b) Existing state policies on wetlands and health and safety are*
19 *sometimes in conflict.*

20 *(c) California provides wintering and nesting habitat for more*
21 *than 60 percent of the migratory waterfowl of the Pacific flyway.*
22 *Yet, over the course of the past century, 90 percent of our state's*
23 *historical wetlands for these waterfowl has been destroyed or*
24 *adversely impacted.*

25 *(d) The significant loss of wintering and breeding habitat has*
26 *not only impacted Pacific flyway waterfowl populations, but*
27 *experts also estimate that over one-half of California's listed*
28 *species are also wetland-dependent.*

29 *(e) Recognizing the importance of these habitats, and the*
30 *significant impact their loss can have on our native wildlife*
31 *populations, the federal governments of the United States,*
32 *Canada, and Mexico are cooperating on the implementation of the*

1 *North American Waterfowl Management Plan. To carry out the*
2 *purposes of this plan in California, the state and federal*
3 *governments have entered into the Central Valley Habitat Joint*
4 *Venture. The Central Valley Habitat Joint Venture has identified*
5 *the urgent need to protect 80,000 acres of wetlands in the central*
6 *valley, to establish 120,000 acres of new wetlands in the central*
7 *valley, to improve habitat on existing public and private wetlands*
8 *and agricultural lands, and to secure dependable water sources for*
9 *the wetlands.*

10 (f) *More than 90 percent of California's historic wetlands have*
11 *disappeared in the past century. The state of California and the*
12 *United States now encourage the funding, development,*
13 *enhancement and revitalization of wetlands, through state*
14 *enhancement programs such as the California Waterfowl Program*
15 *(Art. 7 (commencing with Sec. 3460), Ch. 2, Div. 4, Pt. 1, F. & G.*
16 *C.), and from the United States Departments of Interior and*
17 *Agriculture through waterfowl habitat easements, the*
18 *Conservation Reserve Program (16 U.S.C. Sec. 3831), the*
19 *Wetlands Reserve Program (16 U.S.C. Sec. 3837), and the North*
20 *American Wetlands Conservation Act (16 U.S.C. Sec. 4401 et*
21 *seq.), which foster maintenance and development of wetlands.*

22 (g) *The development of wetlands increases the production of*
23 *mosquitoes. There is a need to reconcile competing state policies*
24 *of health protection and wetland enhancement, which should*
25 *begin with vigorous state action to assist mosquito abatement*
26 *districts and landowners to jointly abate the danger posed to*
27 *humans and wildlife, while increasing desirable wetland habitat.*

28 (h) *The central valley watershed and bay-delta areas are prime*
29 *wetland habitat.*

30 (i) *There is a need to foster a cooperative partnership among*
31 *traditionally competing interests such as districts, field*
32 *technicians, agencies and landowners.*

33 SEC. 3. *Chapter 13 (commencing with Section 2924) is added*
34 *to Division 3 of the Fish and Game Code, to read:*

35 2924. *This act shall be known as the West Nile Virus Disease*
36 *Control and Demonstration Program.*

37 2925. *For the purposes of this chapter, the following terms*
38 *have the following meanings:*

39 (a) *"District" or "mosquito district" means the*
40 *Sacramento-Yolo Mosquito and Vector Control District; San*

1 *Joaquin County Mosquito and Vector Control District; Colusa*
2 *Mosquito Abatement District; the Sutter-Yuba Mosquito and*
3 *Vector Control District; and Butte County Mosquito and Vector*
4 *Control District.*

5 (b) *“Early flooding” means the flooding of privately owned*
6 *wetlands on which waterfowl ponds are located that are initially*
7 *flooded prior to October 1 of each year and remain flooded after*
8 *that date.*

9 (c) *“Late flooding” means flooding of privately owned*
10 *wetlands on which waterfowl ponds are located that are flooded*
11 *after October 1 of each year and remain flooded after that date.*

12 (d) *“Program” means the West Nile Virus Disease Control and*
13 *Demonstration Program.*

14 (e) *“Landowner” means an owner of private wetlands within*
15 *a mosquito district.*

16 (f) *“Department” means the California Department of Fish*
17 *and Game.*

18 (g) *“Lien” means a recorded lien placed on property by a*
19 *district for the purpose of collecting abatement charges.*

20 (h) *“Voluntary agreement” means any written agreement*
21 *between landowners and a mosquito district concerning*
22 *abatement costs.*

23 2926. *The program is hereby established for the purpose of*
24 *reducing mosquito production from early and late flooding,*
25 *through the cooperative efforts of mosquito districts and*
26 *landowners, during calendar years 2004 and 2005.*

27 2927. (a) *No General Fund money shall be used for the*
28 *purposes of this program.*

29 (b) *Funds derived from voluntary agreements, assessments, or*
30 *additional liens placed on property shall be used to offset the costs*
31 *of abatement charged to landowners by districts.*

32 (c) *Of those funds, no more than ten thousand dollars (\$10,000)*
33 *annually shall be used by a district for administration of this*
34 *chapter.*

35 (d) *Any unused funds in one year may be carried over to*
36 *subsequent fiscal years.*

37 2928. (a) *At least three months before the start of each early*
38 *or late flooding, each district shall meet and confer with*
39 *landowners in that district to cooperatively discuss and develop*
40 *habitat, water, and land management techniques to reduce the*

1 *production of mosquitoes on wetlands. Landowners shall*
2 *cooperate and assist in devising management plans to reduce*
3 *mosquito production on wetlands by using the most cost-effective,*
4 *best available control measures to minimize adverse impacts on*
5 *the wetlands ecosystem.*

6 *(b) Not later than July 31 of each calendar year, the mosquito*
7 *district and the landowners shall confer for the purpose of*
8 *determining whether they will conduct an early or late flooding*
9 *program. Priority shall be given to those properties that have*
10 *demonstrated, or for which it can be reasonably assumed, are the*
11 *most likely to produce mosquitoes at levels requiring extensive*
12 *abatement efforts.*

13 *(c) The mosquito district shall keep detailed records of each*
14 *mosquito outbreak requiring the application of control measures,*
15 *including the date of the outbreak and any posttreatment*
16 *inspections, the species of mosquitoes involved, approximate*
17 *acreage affected by the outbreak, the type of control measures*
18 *employed, the type of chemical controls applied, if any, the*
19 *application rate, and the total cost of the abatement procedure.*

20 *(d) The mosquito district shall immediately notify the*
21 *landowners of any mosquito outbreaks requiring control*
22 *measures, and provide the landowners with the written record of*
23 *those outbreaks and any recommendations regarding wetland*
24 *habitat management practices that could be employed to avert or*
25 *minimize future outbreaks on the property in a timely fashion.*

26 *2929. (a) Each mosquito district, in cooperation with*
27 *landowners, shall report to the department by January 1, 2007,*
28 *regarding how marsh management practices and mosquito*
29 *abatement operations have been improved to better integrate*
30 *disease control and wetland survivability. The report shall include*
31 *information about all of the following:*

32 *(1) Specific reductions of mosquito production.*

33 *(2) Enhancement of wetland habitat.*

34 *(3) Reduction of the cost of vector control measures.*

35 *(4) Reduction of the use or need for application of chemical*
36 *control agents into the environment.*

37 *2930. This chapter shall remain in effect only until January 1,*
38 *2007, and of that date is repealed, unless a later enacted statute,*
39 *which is chaptered before January 1, 2007, deletes or extends that*
40 *date.*

1 *SEC. 4. Notwithstanding Section 17610 of the Government*
2 *Code, if the Commission on State Mandates determines that this*
3 *act contains costs mandated by the state, reimbursement to local*
4 *agencies and school districts for those costs shall be made*
5 *pursuant to Part 7 (commencing with Section 17500) of Division*
6 *4 of Title 2 of the Government Code. If the statewide cost of the*
7 *claim for reimbursement does not exceed one million dollars*
8 *(\$1,000,000), reimbursement shall be made from the State*
9 *Mandates Claims Fund.*

